

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TOWER 570 COMPANY LP,

Plaintiff,

-v-

AFFILIATED FM INSURANCE COMPANY et al.,

Defendants.

20-CV-799 (JMF)

ORDER

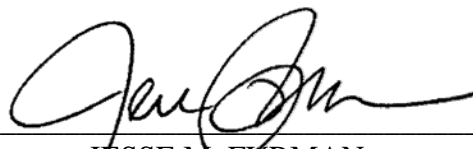
JESSE M. FURMAN, United States District Judge:

On July 13, 2020, Plaintiff filed an amended complaint, ECF No. 40, in response to the Court's order of May 21, 2020, identifying pleading deficiencies concerning Plaintiff's citizenship. ECF No. 35. While the amended complaint addresses many of these deficiencies, one remains. It is well established that "the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent." 28 U.S.C. § 1332(c)(2); *see also Johnson v. Smithsonian Inst.*, 4 F. App'x 69, 71 (2d Cir. 2001) (summary order) ("[A] representative of the . . . estate is deemed for diversity purposes to have the citizenship possessed by the decedent . . ."); *Adler v. Adler*, 862 F. Supp. 70, 72 (S.D.N.Y. 1994) ("Since 1988 the citizenship of a decedent, not the executor, is the only citizenship pertinent for diversity purposes . . ."). The amended complaint, however, pleads only the citizenship of the representative of an estate, rather than the decedent. *See* ECF No. 40 ¶ 18(a).

Given that the Court may not exercise jurisdiction unless Plaintiff pleads (and ultimately proves) complete diversity, it is hereby ORDERED that, on or before **July 21, 2020**, Plaintiff shall amend its Complaint to allege the citizenship of the decedent of any constituent estate that is a member of Plaintiff, in keeping with 28 U.S.C. § 1332(c)(2). If, by that date, Plaintiff is unable to amend the Complaint to truthfully allege complete diversity of citizenship, then the Complaint will be dismissed for lack of subject matter jurisdiction without further notice to either party.

SO ORDERED.

Dated: July 14, 2020
New York, New York


JESSE M. FURMAN
United States District Judge